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Attorneys for Plaintiffs
NORTHERN CALIFORNIA RIVER WATCH,
TEAMSTERS LOCAL 70, and EAST BAY
ALLIANCE FOR A SUSTAINABLE ECONOMY

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

NORTHERN CALIFORNIA RIVER WATCH,
a non-profit corporation; TEAMSTERS
LOCAL 70, a labor organization; and EAST
BAY ALLIANCE FOR SUSTAINABLE
ECONOMY, a non-profit organization,

Plaintiffs,

v.

OAKLAND MARITIME SUPPORT
SERVICES, INC., a corporation; WILLIAM
ABOUDI, an individual; and JORGE
GONZALEZ RIVERA d.b.a. CHRISTIAN
BROTHERS TRUCK SERVICES, an
individual; and REDEVELOPMENT AGENCY
OF THE CITY OF OAKLAND, a local public
agency;

Defendants.

Case No.: 4:10-cv-3912 CW-JSC

**STIPULATION AND CONSENT TO
AMEND COMPLAINT TO ADD CITY
OF OAKLAND AS A DEFENDANT;
ORDER**

Hearing: n/a
Courtroom: A, 15th Floor
Time: n/a

Hon. Presiding Judge Claudia Wilken

The parties hereby stipulate as follows and consent, pursuant to Federal Rules of Civil Procedure, Rule 15(a)(2), to amend the First Amended Complaint and, as needed, other operative pleadings to re-name the City of Oakland as a Defendant in this action in order to facilitate the Parties' completion of the tentative settlement reached on July 22, 2013.

WHEREAS, on November 2, 2010, Plaintiffs filed a First Amended Complaint that included the City of Oakland as a Defendant in this action;

1 WHEREAS, at that time, the City of Oakland Redevelopment Agency, not the City of
2 Oakland, was the sole owner of the land leased by Defendant Oakland Maritime Support
3 Services, Inc.;

4 WHEREAS, accordingly, on February 23, 2011, after confirmation of that underlying
5 fact, Plaintiffs voluntarily dismissed the City of Oakland without prejudice;

6 WHEREAS, effective February 1, 2012, Oakland's Redevelopment Agency ceased to
7 exist, by operation of statute, and had its non-housing assets and liabilities transferred, by statute,
8 to the Oakland Redevelopment Successor Agency ("ORSA");

9 WHEREAS, as of early 2012, the City of Oakland became the owner of the real property
10 on which the OMSS facility is located;

11 WHEREAS, on July 22, 2013, the parties reached a settlement in principle of this matter,
12 which was subject to several contingencies, and have been diligently proceeding since then to
13 finalize a settlement agreement and resolve the contingencies identified in the tentative
14 settlement;

15 WHEREAS, in late August 2013, the City and ORSA received written confirmation from
16 the California Department of Finance and the State Controller's Office that the State of
17 California would not exercise its so-called clawback authority to divest the City of title to the
18 real property where the OMSS facility was located;

19 WHEREAS, with that contingency resolved, and in order to facilitate implementation of
20 the tentative settlement by including the City, as the current landowner, as a signatory to the
21 settlement agreement, the parties wish to amend the First Amended Complaint, and any other
22 operative pleadings that may need to be similarly amended, so that the City is a party to this
23 action;

24 WHEREAS, the First Amended Complaint already includes all necessary allegations
25 addressing the City as a party to this action and the parties therefore do not believe there is any
26 current, substantial need to submit a revised complaint;

1 WHEREAS, the parties also wish to avoid any delay and expense that might be
 2 associated with motion practice associated with a conventional amendment to the First Amended
 3 Complaint, or with amending other operative pleadings;

4 WHEREAS, the Parties agree that adding the City as a Defendant has not been unduly
 5 delayed (the confirmation of the City's status as title holder to the site in dispute coming in late
 6 August, 2013), that this stipulated amendment is a good faith effort to facilitate finalization of
 7 the parties' settlement, and that this stipulated amendment will not prejudice any of the parties;

8 WHEREAS, the City hereby acknowledges service of the First Amended Complaint and
 9 adopts as its own the answer filed by the Redevelopment Agency in April 25, 2011, without
 10 prejudice to its right to seek an amendment to that answer should the tentative settlement not
 11 resolve this action; and

12 WHEREAS, the City's counsel participated in the negotiations leading up to the Parties'
 13 agreement in principle reached on July 22, 2013, the City Council thereafter approved the term
 14 sheet prepared on July 22, 2013, and the City is committed to working in good faith with the
 15 other parties to promptly finalize the settlement of this action.

16 NOW, THEREFORE, the parties hereby stipulate and consent pursuant to Federal Rules
 17 of Civil Procedure, Rule 15(a)(2), to amend the First Amended Complaint to add the City of
 18 Oakland as a party Defendant and respectfully request the Court to enter an order confirming that
 19 amendment.

20 Dated: October 23, 2013

21 */s/ Michael R. Lozeau*

22 MICHAEL R. LOZEAU
 23 Attorney for Plaintiffs

24 Dated: October 23, 2013

25 */s/ Meredith E. Brown*

26 (as authorized on 10/23/13)
 27 MEREDITH E. BROWN
 28 Attorney for Defendants
 OAKLAND MARITIME SUPPORT
 SERVICES, INC. and WILLIAM ABOUDI

1 Dated: October 23, 2013

2 /s/ Robert Doty

3 (as authorized on 10/23/13)

4 ROBERT DOTY

5 Attorney for Defendants

6 CITY OF OAKLAND and

7 REDEVELOPMENT AGENCY OF THE

8 CITY OF OAKLAND

9 **PURSUANT TO STIPULATION AND THE CONSENT OF ALL PARTIES**
10 **APPEARING IN THIS ACTION**, it is hereby ordered pursuant to Federal Rules of Civil
11 Procedure, Rule 15(a)(2), that the First Amended Complaint is amended to add the City of
12 Oakland as a party Defendant.

13 **IT IS SO ORDERED.**

14 Dated: October 24, 2013

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16 Hon. Claudia Wilken
17 United States District Chief Judge
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